IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 38072 of 2015 (H)

PETITIONER(S):

K.T. SAIDALAVI, PROPRIETOR,
M/S. TIPTOP FURNITURE (P) LTD,
KOTTAKKAL, MALAPPURAM DISTRICT.

BY ADVS.SRI.HARISANKAR V. MENON,
SMT.MEERA V.MENON.

RESPONDENT(S):
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1. **THE COMMERCIAL TAX OFFICER,**
   MANJERI AT KOTTAKKAL 676 121.

2. **THE DEPUTY COMMISSIONER,**
   DEPARTMENT OF COMMERCIAL TAXES,
   MALAPPURAM- 676 505.

BY GOVT. PLEADER SMT.LILLY K.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 38072 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS:-

P1- COPY OF ORDER ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2013-14 DATED 04/09/2015.

P2- COPY OF REVISION PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 20/10/2015.

P3- COPY OF ORDER PASSED BY THE 2ND RESPONDENT DATED 16/11/2015.

P4- COPY OF ORDER PASSED BY THE DEPUTY COMMISSIONER (APPEALS), ERNAKULAM DATED 29/08/2014.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.38072 of 2015

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Dated this the 16th day of December 2015

JUDGMENT

Against Ext.P1 Assessment order, petitioner preferred Ext.P2 revision petition before the 2nd respondent. Along with the revision, the petitioner had also preferred a stay petition. The 2nd respondent has now passed Ext.P3 order on the stay petition directing the petitioner to pay an amount of Rs.7,60,000/- as a condition for the grant of stay against recovery of the balance amounts confirmed against the petitioner vide Ext.P1 assessment order.

2. In the writ petition, the petitioner impugns the said conditional order of stay, inter alia, on the ground that the 2nd respondent had not exercised his discretion validly while passing the said order.

3. I have heard the learned counsel for the petitioner and also the learned Government Pleader for the respondents.

On a consideration of the facts and circumstances of the case and submissions made across the bar, I dispose the writ petition with the following directions:-

(i) In Ext.P3 order, the 2nd respondent does not state reasons as to why the petitioner was required to deposit the amounts as a condition for the grant of stay. This Court has held in **Archana Agencies v Commercial Tax Officer - 2014 (2) KLT 715** that an authority considering a stay petition is bound to give reasons even while granting conditional stay.

(ii) Ext.P3 order is quashed and the 2nd respondent is directed to reconsider the matter and pass fresh orders in the stay petition, within one month from the date of receipt of a copy of this judgment after hearing the petitioner.

(iii) Recovery steps, if any, initiated against the petitioner shall be kept in abeyance till such time as fresh orders are passed by the 2nd respondent as directed above and communicated to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/